



Rep. Robert S. Molaro

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09400SB0613ham002

LRB094 10169 RCE 58666 a

1 AMENDMENT TO SENATE BILL 613

2 AMENDMENT NO. _____. Amend Senate Bill 613 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Electronic Commerce Security Act is amended
5 by changing Sections 5-115, 5-120, and 5-125 as follows:

6 (5 ILCS 175/5-115)

7 Sec. 5-115. Electronic records.

8 (a) Where a rule of law requires information to be
9 "written" or "in writing", or provides for certain consequences
10 if it is not, an electronic record satisfies that rule of law.

11 (b) The provisions of this Section shall not apply:

12 (1) when its application would involve a construction
13 of a rule of law that is clearly inconsistent with the
14 manifest intent of the lawmaking body or repugnant to the
15 context of the same rule of law, provided that the mere
16 requirement that information be "in writing", "written",
17 or "printed" shall not by itself be sufficient to establish
18 such intent;

19 (2) to any rule of law governing the creation or
20 execution of a will or trust, living will, or healthcare
21 power of attorney; and

22 (3) to any record that serves as a unique and
23 transferable instrument of rights and obligations
24 including, without limitation, negotiable instruments and

1 other instruments of title wherein possession of the
2 instrument is deemed to confer title, unless an electronic
3 version of such record is created, stored, and transferred
4 in a manner that allows for the existence of only one
5 unique, identifiable, and unalterable original with the
6 functional attributes of an equivalent physical
7 instrument, that can be possessed by only one person, and
8 which cannot be copied except in a form that is readily
9 identifiable as a copy; subsection (a) does apply, however,
10 to documents transferring or releasing interests in real
11 estate that are recorded with the county recorder.

12 (Source: P.A. 90-759, eff. 7-1-99.)

13 (5 ILCS 175/5-120)

14 Sec. 5-120. Electronic signatures.

15 (a) Where a rule of law requires a signature, or provides
16 for certain consequences if a document is not signed, an
17 electronic signature satisfies that rule of law.

18 (b) An electronic signature may be proved in any manner,
19 including by showing that a procedure existed by which a party
20 must of necessity have executed a symbol or security procedure
21 for the purpose of verifying that an electronic record is that
22 of such party in order to proceed further with a transaction.

23 (c) The provisions of this Section shall not apply:

24 (1) when its application would involve a construction
25 of a rule of law that is clearly inconsistent with the
26 manifest intent of the lawmaking body or repugnant to the
27 context of the same rule of law, provided that the mere
28 requirement of a "signature" or that a record be "signed"
29 shall not by itself be sufficient to establish such intent;

30 (2) to any rule of law governing the creation or
31 execution of a will or trust, living will, or healthcare
32 power of attorney; and

33 (3) to any record that serves as a unique and

1 transferable instrument of rights and obligations
2 including, without limitation, negotiable instruments and
3 other instruments of title wherein possession of the
4 instrument is deemed to confer title, unless an electronic
5 version of such record is created, stored, and transferred
6 in a manner that allows for the existence of only one
7 unique, identifiable, and unalterable original with the
8 functional attributes of an equivalent physical
9 instrument, that can be possessed by only one person, and
10 which cannot be copied except in a form that is readily
11 identifiable as a copy; subsection (a) does apply, however,
12 to documents transferring or releasing interests in real
13 estate that are recorded with the county recorder.

14 (Source: P.A. 90-759, eff. 7-1-99.)

15 (5 ILCS 175/5-125)

16 Sec. 5-125. Original.

17 (a) Where a rule of law requires information to be
18 presented or retained in its original form, or provides
19 consequences for the information not being presented or
20 retained in its original form, that rule of law is satisfied by
21 an electronic record if there exists reliable assurance as to
22 the integrity of the information from the time when it was
23 first generated in its final form, as an electronic record or
24 otherwise.

25 (b) The criteria for assessing integrity shall be whether
26 the information has remained complete and unaltered, apart from
27 the addition of any endorsement or other information that
28 arises in the normal course of communication, storage and
29 display. The standard of reliability required to ensure that
30 information has remained complete and unaltered shall be
31 assessed in the light of the purpose for which the information
32 was generated and in the light of all the relevant
33 circumstances.

1 (c) The provisions of this Section do not apply to any
2 record that serves as a unique and transferable instrument of
3 rights and obligations including, without limitation,
4 negotiable instruments and other instruments of title wherein
5 possession of the instrument is deemed to confer title, unless
6 an electronic version of such record is created, stored, and
7 transferred in a manner that allows for the existence of only
8 one unique, identifiable, and unalterable original with the
9 functional attributes of an equivalent physical instrument,
10 that can be possessed by only one person, and which cannot be
11 copied except in a form that is readily identifiable as a copy;
12 subsections (a) and (b) do apply, however, to documents
13 transferring or releasing interests in real estate that are
14 recorded with the county recorder.

15 (Source: P.A. 90-759, eff. 7-1-99.)".